



FAIR POLITICAL PRACTICES COMMISSION

P.O. Box 807 • 428 J Street • Sacramento, CA 95812-0807

(916) 322-5660 • Fax (916) 322-0886

October 29, 2001

Gregory A. Reese
Black Men & Women Committee
117 Third Street
Rodeo, CA 94572

**Re: Your Request for Advice
Our File No. A-01-182**

Dear Mr. Reese:

You have requested advice on behalf of the chairman of the Black Men & Women Committee concerning the campaign provisions of the Political Reform Act.¹

QUESTIONS

1. May the members of the Black Men & Women (BMW) form a separate state general purpose recipient committee?
2. Would the existing BMW county general purpose recipient committee be permitted to contribute to the new state committee?

CONCLUSIONS

1. Yes.²
2. Yes. However, please note that if a county committee makes contributions to a state committee, the county committee may qualify as a state committee.

¹ Government Code Sections 81000-91014. Commission regulations appear at Title 2, California Code of Regulations Section 18109, et seq.

² While your letter provided information regarding the history of the BMW county committee, please note that the Commission does not give advice regarding past conduct. (Regulation 18329(b)(8)(A).) Therefore, nothing in this letter should be construed to evaluate any conduct that has already taken place.

FACTS

The Black Men & Women Committee is a county general purpose committee which makes expenditures in connection with Richmond City and Contra Costa County elections. The county committee will not make contributions to state candidates. BMW would like to establish a separate state committee to make contributions to candidates for elective state office.

ANALYSIS

There is no prohibition for the same group of persons to form more than one committee, i.e., a county committee and a separate state committee. Therefore, the members of BMW may form a separate committee for the purpose of making contributions to state candidates.

Committees that make contributions to candidates for elective state office are subject to contribution limits. Section 85303(a) prohibits committees, other than political party committees, from receiving from any person:

"...any contribution totaling more than five thousand dollars (\$5,000) per calendar year for the purpose of making contributions to candidates for elective state office."³

Section 82047 defines "person" as:

"...an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert."

You have inquired whether the county committee may make a contribution of up to \$5,000 to the state committee. Because the county committee is a "person" under the Act, it may contribute up to the \$5,000 limit. However, if the county committee makes contributions to the state committee, it also may become a state committee.

³ However, subdivision (c) of § 85303 states in pertinent part: "...nothing in this chapter shall limit a person's contributions to a committee or political party committee provided the contributions are used for purposes other than making contributions to candidates for elective state office." Regulation 18531(e) sets forth the appropriate procedural requisites for receipt of such excess contributions. (*Gutierrez Advice Letter*, No. I-01-221.)

The term "general purpose committee" is defined, in part, by the jurisdictions in which the committee is active. Section 82027.5(c) defines a county committee as one that supports or opposes candidates or measures "voted on in only one county, or in more than one jurisdiction within one county." A state committee:

"...is a committee to support or oppose candidates or measures voted on in a state election, or in more than one county." (Section 82027.5(b).)

In the context of determining a committee's proper filing status as a "state" or "county" general purpose committee under Section 82027.5, we have advised that "[a]n occasional contribution to a candidate for state office will not alter [a] committee's filing status" as a county general purpose committee where the overall activity of the committee is otherwise within the county. (*Whitaker* Advice Letter, No. A-87-115.) "However," we warned, "if the Committee begins to regularly make contributions to candidates for state office, or becomes involved to any significant degree in state elections, it should begin filing as a 'state' general purpose committee." (*Ibid.*) Therefore, we have further advised that "a county general purpose committee which conducts more than de minimis activity outside the county is *not* a committee which is 'active only' in the city or county." (*Moll* Advice Letter, No. A-97-080.)

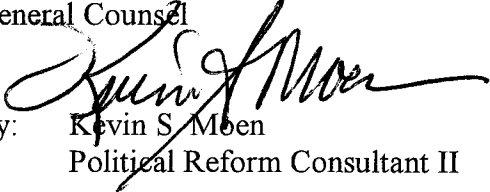
"Whether a given activity is de minimis will necessarily depend on the overall activity and history of the committee. [Footnote omitted.] For example, a \$100 contribution to a state-wide candidate would probably be considered de minimis for a committee with a history of making many, very large contributions to local candidates. Conversely, the same \$100 contribution may be more than de minimis for a committee of modest means." (*Ibid.*)

In conclusion, if the county committee contributes more than a de minimis amount to the state committee for support of, or in opposition to, state candidates, the county committee would become a state committee.

If you have any further questions, please contact me at (866) 275-3772.

Sincerely,

Luisa Menchaca
General Counsel


By: Kevin S. Moen
Political Reform Consultant II